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**United States Department of Energy  
Office of Hearings and Appeals**

In the Matter of: Personnel Security Hearing	)	
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Filing Date: March 2, 2022	)	Case No.: PSH-22-0061
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Issued: June 30, 2022

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**Administrative Judge Decision**

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Noorassa A. Rahimzadeh, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (the Individual) to hold an access authorization under the United States Department of Energy's (DOE) regulations, set forth at 10 C.F.R. Part 710, "Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material."<sup>1</sup> As discussed below, after carefully considering the record before me in light of the relevant regulations and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (June 8, 2017) (Adjudicative Guidelines), I conclude that the Individual's access authorization should not be restored.

**I. Background**

A DOE Contractor employs the Individual in a position that requires him to hold an access authorization. On May 21, 2021, the Individual was arrested and charged with Driving While Intoxicated (DWI).<sup>2</sup> Exhibit (hereinafter cited as "Ex.") 6 at 1; Ex. 7 at 1. Prior to being stopped by law enforcement officials, the Individual went to a bar and consumed approximately three alcoholic drinks containing liquor over the span of approximately two hours. Ex. 7 at 1; Ex. B at 1; Ex. K at 8. When he left the bar, he proceeded to drive the wrong way down a one-way road, and was stopped by law enforcement officials at that time. Ex. 7 at 1; Ex. B at 1-2. Field sobriety and breathalyzer tests were performed, and the Individual was placed under arrest after breathalyzer results registered .118. Ex. 7 at 1; Ex. B at 1-2. After the Individual properly reported the matter to his employer, the Local Security Office (LSO) requested that the Individual complete

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<sup>1</sup> The regulations define access authorization as "an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material." 10 C.F.R. § 710.5(a). This Decision will refer to such authorization as access authorization or security clearance.

<sup>2</sup> The Individual testified that he was charged with Operating While Intoxicated (OWI). Transcript of Hearing, Case No. PSH-22-0061 (hereinafter cited as "Tr.") at 47. For the purposes of this Decision, we shall use the term DWI, as indicated in the Notification Letter.

a Letter of Interrogatory (LOI), which the Individual completed and submitted on June 18, 2021. Exs. 6 and 7; Tr. at 32, 38.

As a result of the responses provided in the LOI, the LSO instructed the Individual to undergo a psychological evaluation conducted by a DOE-consultant Psychologist (DOE Psychologist). Ex. 8. The DOE Psychologist produced a report of his findings on October 25, 2021.<sup>3</sup> Ex. 9. In forming his opinion, the DOE Psychologist relied on the information he obtained in his clinical interview with the Individual, as well as his review of the Individual's Personnel Security File (PSF), psychological testing, and the *Diagnostic Statistical Manual of Mental Disorders, 5<sup>th</sup> Edition* (DSM-V). Ex. 8 at 3. Based on the information the DOE Psychologist reviewed, including the Individual's history of alcohol consumption and test results, the DOE Psychologist opined that the Individual "does binge consume alcohol to a point where impaired judgement can be an issue of concern." Ex. 8 at 5-9. He could not confirm the Individual was habitually drinking. Ex. 8 at 9; Tr. at 142. The DOE Psychologist did not find adequate evidence of rehabilitation or reformation, as the Individual had "not acknowledged an alcohol-related problem while outwardly proclaiming no intention to alter his pattern of drinking." Ex. 8 at 9. The DOE Psychologist observed that the Individual was "clearly minimizing both his consumption of alcohol and the secondary risks related to excessive use." Ex. 8 at 8. He also stated that the Individual seemed to "lack insight into" his limit in terms of achieving intoxication, and further, the DOE Psychologist found that the Individual "certainly acknowledged examples of binge drinking." Ex. 8 at 8-9. To show adequate evidence of rehabilitation or reformation, the DOE Psychologist recommended that the Individual join and successfully complete a four-week Intensive Outpatient Program (IOP) that contains educational opportunities as well as group and individual therapy components. Ex. 8 at 9. He also recommended that the Individual continue with individual therapy for at least six months or for as long as recommended by the IOP, that he participate in an Alcoholics Anonymous (AA) or similar support group at least three times per week, that he abstain from alcohol for twelve months, and that he submit to lab testing every two to four weeks with breathalyzer tests to be administered pursuant to workplace protocol. Ex. 8 at 9.

Due to unresolved security concerns, the LSO began the present administrative review proceeding by issuing a letter (Notification Letter) to the Individual in which it notified him that it possessed reliable information that created substantial doubt regarding his eligibility to hold a security clearance and that his clearance had been suspended. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guideline G (Alcohol Consumption) of the Adjudicative Guidelines. Ex. 1. The Notification Letter informed the Individual that he was entitled to a hearing before an Administrative Judge to

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<sup>3</sup> A Phosphatidylethanol (PEth) blood test and an Ethyl Glucuronide (EtG) urine test was administered in conjunction with the psychological evaluation. The EtG test detects alcohol up to approximately 80 hours after the consumption of an alcoholic beverage. Ex. 8 at 7. The EtG test result was negative. Ex. 8 at 7. The PEth test, which detects alcohol approximately three weeks after it is consumed, gave a positive result. Ex. 8 at 7. The PEth test results suggested that the Individual "likely consumed large amounts of alcohol in recent weeks." Ex. 8 at 7. The DOE Psychologist testified that the PEth results were not consistent with the moderate consumption the Individual had reported during the evaluation. Tr. at 147. The Individual's psychologist opined in his report that estimating the Individual's alcohol intake based on the aforementioned test results is tantamount to "conjecture[.]" and indicated "[i]nformation derived in [this] manner should certainly not be used for decision making purposes." Ex. K at 5. The Individual submitted to a blood PEth test in April 2022, the results of which were negative. Ex. J; Tr. at 69-70.

resolve the substantial doubt regarding his eligibility to hold a security clearance. *See* 10 C.F.R. § 710.21.

The Individual requested a hearing, and the LSO forwarded the Individual's request to the Office of Hearings and Appeals (OHA). The Director of OHA appointed me as Administrative Judge in this matter. At the hearing I convened pursuant to 10 C.F.R. § 710.25(d), (e), and (g), the Individual testified on his own behalf and presented the testimony of one other witness, his supervisor (Individual's Supervisor). He also submitted 15 exhibits, marked as Exhibits A through O. The DOE Counsel presented the testimony of one witness, the DOE Psychologist, and submitted ten exhibits marked as Exhibits 1 through 10.

## **II. Notification Letter and Associated Concerns**

As indicated above, the Notification Letter informed the Individual that information in the possession of the DOE created substantial doubt concerning his eligibility for a security clearance. That information pertains to Guideline G of the Adjudicative Guidelines. Ex. 1. Under Guideline G (Alcohol Consumption), “[e]xcessive alcohol consumption often leads to the exercise of questionable judgement or the failure to control impulses, and can raise questions about an individual’s reliability and trustworthiness.” Adjudicative Guidelines at ¶ 21. Among those conditions set forth in the Adjudicative Guidelines that could raise a disqualifying security concern are “[a]lcohol-related incidents away from work, such as driving while under the influence...regardless of the frequency of the individual’s alcohol use[,]” and “binge consumption of alcohol to the point of impaired judgement, regardless of whether the individual is diagnosed with alcohol use disorder[.]” Adjudicative Guidelines at ¶ 22(a) and (c). With respect to Guideline G, the LSO alleged that in May 2021, the Individual was arrested and charged with Driving While Intoxicated (DWI), that prior to his arrest, he had consumed three alcoholic beverages, and that his breathalyzer results registered at .118. Ex. 1 at 1. The LSO further alleged that the Individual underwent a psychological evaluation conducted by the DOE Psychologist in October 2021, and the DOE Psychologist concluded that the Individual binge consumes alcohol to the point of impaired judgement and that he has not shown adequate evidence of rehabilitation or reformation. Ex. 1 at 1.

## **III. Regulatory Standards**

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a decision that reflects my comprehensive, common-sense judgment, made after consideration of all the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person’s access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) (“clearly consistent with the national interest” standard for granting security clearances indicates “that security determinations should err, if they must, on the side of denials”); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990) (strong presumption against the issuance of a security clearance).

The individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization “will not endanger the common defense and security and will be clearly consistent with the national interest.” 10 C.F.R. § 710.27(d). The individual is afforded a full opportunity to present evidence supporting his eligibility for an access authorization. The Part 710 regulations are drafted to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. *Id.* § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

#### **IV. Findings of Fact and Hearing Testimony**

The Individual began his testimony by confirming that on the day of his DWI arrest, he had consumed three alcoholic beverages over the span of two hours, the last of which, likely “a double,” was purchased for him. Tr. at 48-49; Ex. 7 at 1. He denied feeling intoxicated at that time and was surprised by the results the breathalyzer. Tr. at 49, 110-11; Ex. 7 at 2. He also confirmed that he was operating a government vehicle when he left the establishment in which he had consumed the aforementioned beverages, as he “felt like [he] was probably the best choice to drive[.]” when compared to the other individuals who were with him. Tr. at 49, 52, 135. The Individual confirmed that he had not considered calling a taxicab or some other ride-sharing vehicle, and in hindsight, he believes it was unreasonable to drive on that occasion. Tr. at 52, 110. The Individual reported the incident to his supervisor the next day. Tr. at 54. The DWI charge was ultimately reduced to a reckless driving charge pursuant to a plea agreement. Tr. at 56-57; Ex. M. As part of the plea agreement, the Individual was ordered to pay a fine, which he satisfied. Tr. at 57; Ex. M at 3. The Individual stated that prior to the incident, he had not consumed alcohol for two or three weeks. Tr. at 62-63.

The Individual testified that the psychological evaluation he underwent took approximately three hours, and that the DOE Psychologist did not voice any concerns regarding the Individual’s alcohol consumption at that time.<sup>4</sup> Tr. at 60-61. He stated that since the DWI incident, he has generally modified his alcohol consumption, but that “after the incident...[he] increased some alcohol intake based on how [he] was feeling[.]” Tr. at 62-64. He began limiting the amount of alcohol he was consuming in December 2021, and from February 2022 to April 2022, the Individual engaged in a period of sobriety, as he “[did] not have a single drink of alcohol.” Tr. at 65, 97. In later testimony, the Individual indicated he began abstaining from alcohol “the latter part of January [2022] until the early part of May.” Tr. at 108. The Individual continued to consume alcohol after the evaluation with the DOE Psychologist, “few and far between, and moderately.” Tr. at 62. When he resumed consuming alcohol, he began consuming less alcohol per beverage.<sup>5</sup> Tr. at 65. When

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<sup>4</sup> The Individual told the DOE Psychologist that he was consuming approximately three to five drinks in a week, but that some weeks, he “may not drink at all.” Ex. 8 at 4. The report noted that the Individual was “evasive in responding to questions about his alcohol consumption[.]” Ex. 8 at 4. In his response to the LOI, the Individual stated that he “may have [three to five] drinks per week[.]” that his alcohol consumption depends on “the social setting[.]” but that he may not consume alcohol some weeks. Ex. 7 at 3.

<sup>5</sup> The last time he consumed alcohol prior to the hearing was the preceding weekend, when he consumed four ounces of rum over the span of six hours. Tr. at 66, 77-78, 82. Prior to that, the Individual stated he likely consumed alcohol the weekend of May 13, consuming only one alcoholic beverage. Tr. at 81.

he consumes alcohol, he does not drink to become intoxicated. Tr. at 109. He also testified that his alcohol consumption is something that he will “be more conscious of in the future.”<sup>6</sup> Tr. at 70. In his testimony, the Individual confirmed his belief that he has never had a problem with alcohol and stated that he continues to keep alcohol in his home. Tr. at 77, 86, 90.

The Individual testified that he did not immediately begin abstaining from alcohol and did not immediately seek treatment upon receiving the DOE Psychologist’s report in December 2021, because he “wanted a second opinion.” Tr. at 119-21. In later testimony, he indicated that he did not seek treatment until March 2022 because he was “trying to get his feet underneath [him.]” Tr. at 123. When he began the process of enrolling in a treatment program, the Individual underwent a chemical dependency/abuse assessment in early March 2022, during which he indicated he last consumed alcohol one month prior and that he never felt his alcohol consumption was problematic. Ex. L at 6; Tr. at 66-67, 99. The assessment notes indicate that the Individual reported “drinking in social situations [approximately five] drinks a week[.]” and admitted that he had increased his alcohol consumption at the start of the COVID-19 pandemic. Ex. L at 6; Tr. at 100. He did not receive a substance or alcohol-related diagnosis at the time of the March 2022 assessment, and it was determined by the evaluating licensed counselor that the Individual did “not appear to meet criteria for...services.” Ex. L at 7-8.<sup>7</sup> At the hearing, the Individual indicated that he “[did not] press the issue of trying to” enroll in the program. Tr. at 67, 121. Accordingly, the Individual did not continue receiving any services from the recovery program beyond the assessments that were conducted. Tr. at 67, 121. The Individual also attended one AA meeting and “a couple” of meetings of another faith-based self-help group online. Tr. at 67, 90, 117. He was not attending AA or similar type group meetings at the time of the hearing, as he felt he was out of place and that it was something he did not need. Tr. at 67-68, 90. In later testimony, the Individual indicated that “he could definitely see [himself] continuing” with the faith-based group, but there were no specific plans to attend those meetings. Tr. at 127. The Individual also completed a four-hour behavior modification course in February 2022, as well as a four-hour drug and alcohol awareness class the same month. Exs. H and I; Tr. at 71, 101. He felt the classes served as “refresher” courses on substance and behavior related matters. Ex. I; Tr. at 71, 102-04.

In April 2022, the Individual underwent an evaluation conducted by a board-certified psychologist of his own choosing (Individual’s Psychologist), who issued a report of the evaluation on May 2, 2022. Ex. K; Tr. at 69, 93. To form a basis for his opinion, the Individual’s Psychologist used the DSM-V, conducted a mental status examination and Personality Assessment Inventory, made clinical observations, and reviewed documents provided to him by the Individual, which included the DOE Psychologist’s report and the Notification Letter. Ex. K at 2. The Individual’s Psychologist found the Individual forthcoming about his alcohol consumption, which the

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<sup>6</sup> The Individual also submitted a signed statement of intent, dated May 18, 2022, indicating that he will not “misuse or abuse alcohol in the future” and that he understands that such misuse or abuse is grounds for the revocation of his security clearance. Ex. G. He considers alcohol misuse or abuse to be “drinking too much.” Tr. at 124. At the hearing, he denied ever reporting to work under the influence of any substance, and confirmed his DWI was a “one-time lapse in judgement.” Tr. at 73, 75.

<sup>7</sup> However, the licensed counselor’s notes from the evaluation did indicate that the Individual “could benefit from support related to his current situation[.]” Ex. L at 8. The Individual stated that these recommended services pertained to matters that did not include an alcohol-related diagnosis. Tr. at 128-29.

Individual characterized as dependent on the social context. Ex. K at 5. His report also recounts a number of instances in which the Individual either disagreed with the DOE Psychologist's characterization of his statement or asserted that the DOE Psychologist had incorrectly recounted the facts relayed to him. Ex. K at 5. The Individual reported that in early 2020, the Individual "began drinking more alcohol than was his custom." Ex. K at 7. As the Individual stayed home during pandemic lockdowns, the Individual began drinking socially with his neighbors, "not every night, but more than usual." Ex. K at 7. The Individual indicated that "it [was not] a regular thing for [him] to get drunk." Ex. K at 7. He denied drinking and driving since his arrest and reported having "very little alcohol since February 2022." Ex. K at 9. The Individual's Psychologist opined that the Individual does not currently meet the diagnostic criteria for Alcohol Use Disorder (AUD), and that he "has not regularly engaged in binge drinking." Ex. K at 10-11. Further, he stated that he suspects that "based on his patterns of alcohol use over the years, there have been other times in [the Individual's life] when he consumed enough alcohol that his judgement may have been impaired to some extent[.]" Ex. K at 11. However, he stated that the "clear pattern" is that the Individual consumes alcohol "moderately and in a way that does not negatively impact his judgement, trustworthiness, or reliability." Ex. K at 11. The Individual's Psychologist further opined that the Individual is not in need of treatment for AUD, that the Individual does not have a condition that could "impair his judgement, stability, reliability, or trustworthiness" in the context of his work duties and that alcohol has not impacted his work performance. Ex. K at 11; Tr. at 69.

During his testimony, the Individual's supervisor acknowledged that the Individual is "well respected" and "one of [his] most trusted instructors." Tr. at 18-19, 22. Other than the DWI, the Individual had not engaged in any sort of behavior that would make his supervisor question his character, and he confirmed that he believes the Individual to be of high moral character.<sup>8</sup> Tr. at 19. When he was approached by his supervisor after the DWI incident, the Individual was remorseful and accepted responsibility for his actions. Tr. at 20, 22, 24-25. The Individual's supervisor stated that he believes the Individual made a mistake, and that the Individual is not a threat to national security. Tr. at 20-22. He denied ever seeing the Individual report to work under the influence of alcohol but acknowledged that he has not associated with the Individual outside of the workplace. Tr. at 21, 24.

At the hearing, the DOE Psychologist confirmed that he "was unable to identify adequate criteria to offer up an alcohol use diagnosis[]" when he evaluated the Individual. Tr. at 140. However, the DOE Psychologist opined that the Individual's alcohol consumption "did reach a point of fairly high consumption," even though he did find the Individual's statements about his alcohol

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<sup>8</sup> The Individual also submitted statements from character witnesses that described the Individual as trustworthy and dedicated and described the DWI charge as "out of character." Ex. D at 1-2. The character witnesses recognized the Individual as a person of good character. Ex. D at 3-4. One witness indicated that she has never seen the Individual consume "alcohol to excess[]" while interacting with the Individual socially outside of work Ex. D at 6. The Individual was also described as a person who displays "integrity and responsibility," and someone who is "sincere." Ex. D at 7-8. In lieu of testimony, a coworker who has known the Individual for approximately twenty years and considers the Individual to be a close friend, submitted a letter. Ex. O. In the letter, he indicated the Individual is reliable and exemplifies the characteristics of duty and honor. Ex. O at 1. The coworker noted that the Individual is a former member of a branch of the armed services and a dedicated father, and that the Individual "honors himself, his family, his co-workers, and his country through selfless service." Ex. O at 1. He went on to state that the Individual "has a life and career of a thousand selfless acts[.]" and vouched for the Individual's character "without hesitation[.]" Ex. O at 1.

consumption “a bit hard to follow[.]” Tr. at 140-41. The Individual provided enough information for the DOE Psychologist to feel “comfortable in stating that [there] appears to be an issue of episodic binge drinking.” Tr. at 141, 164-65. The DOE Psychologist noted in his testimony that results of psychological testing indicated the Individual had “elevations on two of the validity indicators, both of which suggest some tendency toward being defensive and minimizing[.]” Tr. at 143, 158. These results were taken with his observation that it was difficult to obtain specific responses from the Individual regarding his alcohol consumption. Tr. at 144. He felt the Individual’s belief that he does not have a problem with alcohol to be caused, in part, by denial. Tr. at 146. The DOE Psychologist testified that he had the chance to examine the report produced by the Individual’s Psychologist, as well as the notes produced by the treatment center that evaluated the Individual in March 2022. Tr. at 144-45. He testified that if these sources took the Individual literally, the minimizing and evasiveness the Individual exhibited with the DOE Psychologist could have impacted their opinions. Tr. at 145. The DOE Psychologist’s primary issue with the Individual’s Psychologist’s report was that he wrote the report as though the DOE Psychologist had diagnosed the Individual with AUD, which he had not. Tr. at 148. Further, the DOE Psychologist noted that the Individual’s Psychologist did not push the issue of treatment, despite the seriousness of the precipitating incident. Tr. at 149. The DOE Psychologist also noted that the treatment center used a diagnostic tool that is generally effective only when an individual already has the mindset that he or she has a problem with alcohol, and “a worthless instrument” when assessing a person who is not seeking treatment or assistance, as the questions are “transparent.” Tr. at 150-51, 172. If the tools the treatment center used were of the same type, then the DOE Psychologist “could see how [those assessing the Individual] got fooled.” Tr. at 150-151. Based on the evidence and the testimony, the DOE Psychologist could not find adequate evidence of reformation or rehabilitation. Tr. at 152-53, 156.

## **V. Analysis**

The Adjudicative Guidelines provide that conditions that could mitigate security concerns under Guideline G include:

- (a) So much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or judgment;
- (b) The individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations;
- (c) The individual is participating in counseling or a treatment program, has no previous history of treatment and relapse, and is making satisfactory progress in a treatment program; and
- (d) The individual has successfully completed a treatment program along with any required aftercare, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Adjudicative Guidelines at ¶ 23(a)-(d).

Although the Individual completed two four-hour classes, discontinued alcohol consumption for approximately four months, attended several support group meetings, and sought evaluation after receiving the DOE Psychologist's report, the Individual did not fully implement the DOE Psychologist's recommendations. The Individual testified that he received the DOE Psychologist's report in December 2021, and did not begin the process of seeking treatment until March 2022. While the Individual's Psychologist did not diagnose the Individual with AUD, this conclusion was not inconsistent with the DOE Psychologist's conclusion, as the DOE Psychologist opined that the Individual binge consumes alcohol. Further, after listening to the testimony provided and examining evidence in the record, the DOE Psychologist could not conclude that the Individual had shown adequate evidence of rehabilitation or reformation.

The Individual's Counsel argued in his closing statement that mitigating factor 23(a) is applicable in this case, because the incident occurred in May 2021, well in the past, and occurred only once, constituting infrequent behavior. Tr. at 181. Counsel also argued that the Individual does not have a history of engaging in any type of criminal conduct. As an initial matter, at the time of the hearing, scarcely a year had passed since the incident, and accordingly, it was recent enough to cast doubt on the Individual's current reliability, trustworthiness, and judgement. Further, I cannot conclude that the behavior occurred under unusual circumstances or that it was infrequent. Although the Individual's Psychologist concluded that the Individual has a pattern of engaging in moderate alcohol consumption that does not impair his judgement, he also stated his belief that there had been occasions on which the Individual "consumed enough alcohol that this judgement may have been impaired to some extent." Ex. K at 11. This statement taken with the DOE Psychologist's conclusion that the Individual binge consumes alcohol to the point of impaired judgement and the fact that the Individual continues to consume alcohol casts doubt as to whether this behavior, namely, consuming alcohol to the point of impaired judgment, is infrequent or occurred under unusual circumstances. Accordingly, I cannot conclude that mitigating factor 23(a) has been satisfied.

At no point during the hearing or anywhere else in the record did the Individual endorse a belief that his alcohol consumption was or still is maladaptive. This is a matter of concern. In May 2021, the Individual consumed alcohol to the point of impairment, exercised poor judgement and operated a government vehicle under those conditions, placing his clearance in jeopardy. Despite the foregoing, the Individual does not believe his alcohol consumption is or was problematic. Further, although the Individual testified that he abstained from alcohol from late January 2022 to May 2022, and has reduced his alcohol consumption in general, and provided a negative PEth test from April 2022,<sup>9</sup> his testimony is bereft of any specific statement regarding his current pattern of alcohol consumption. The Individual stated that his alcohol consumption at any given time is commensurate with the social situation and approximated how much alcohol he consumed on two

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<sup>9</sup> In making the argument that the Individual has significantly reduced his alcohol consumption, his Counsel presented by way of support the negative PEth test that the Individual took in April 2022. Tr. at 182. However, by his own testimony, the Individual resumed consuming alcohol after taking the aforementioned PEth test, and the record is bereft of any further test results.

prior occasions, the weekend preceding the hearing, and, likely, the weekend of May 13. Although informative, the Individual did not demonstrate “a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations[,]” which was that the Individual abstain from alcohol for twelve months. Adjudicative Guidelines at 23(b). Accordingly, based on the foregoing, I cannot conclude that the Individual has met mitigating factor 23(b), as he has neither acknowledged his pattern of maladaptive alcohol use, nor has he demonstrated a clear and established pattern of modified alcohol consumption.

Counsel for the Individual also argued that the Individual meets mitigating factors 23(c) and (d). Tr. at 184. Although the Individual initially sought treatment in early March 2022, he attended two appointments prior to being informed that he did “not appear to meet criteria for...services.” Ex. L at 7-8. After receiving this information, the record indicates that the Individual failed to engage the services of a therapist or counselor and failed to participate in a treatment program. Accordingly, mitigating factors 23(c) and (d) are inapplicable, as the Individual is neither currently receiving counseling or participating in a treatment program, nor has he successfully completed a treatment program.

## **VI. Conclusion**

For the reasons set forth above, I conclude that the LSO properly invoked Guideline G of the Adjudicative Guidelines. After considering all the evidence, both favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all the testimony and other evidence presented at the hearing, I find that the Individual has not brought forth sufficient evidence to resolve the security concerns set forth in the Notification Letter. Accordingly, the Individual has not demonstrated that restoring his security clearance would not endanger the common defense and would be clearly consistent with the national interest. Therefore, I find that the Individual’s security clearance should not be restored. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Noorassa A. Rahimzadeh  
Administrative Judge  
Office of Hearings and Appeals